IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 19TH NOVEMBER 2007 / 28TH KARTHIKA 1929

OP.No. 6735 of 1999(B)

PETITIONER:

T.P.RAMACHANDRAN,
HEADMASTER, GWLP SCHOOL,
NEDIYIRUPPU, KONDOTTY SUB DISTRICT,
NEDIYIRUPPU.

BY ADV. SRI.J.JULIAN XAVIER
SRI.J.JULIAN XAVIER
SRI.GEORGE VARGHESE KIZHAKKAMBALAM
SRI.C.K.ABDUL RAHIM

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
GENERAL EDUCATION DEPARTMENT,
GOVT. OF KERALA, THIRUVANANATHAPURAM.

2. DEPUTY DIRECTOR OF EDUCATION,
MALAPPURAM.

BY GOVERNMENT PLEADER, SRI.T.T.MUHAMOOD
SRI.K.SETHUNATH

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 19/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1: COPY OF THE JUDGMENT DATED 27.11.98 IN O.P.23486/98.

EXT. P2: COPY OF THE ORDER NO.A2/39556/98 DATED 3.2.99 PASSED BY THE 2ND RESPONDENT PROMOTING THE PETITIONER AS HEADMASTER.

EXT. P3: COPY OF THE JUDGMENT DATED 7.4.97 IN O.P.NO.5170/97.

/TRUE COPY/

P.A. TO JUDGE

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S.SIRI JAGAN, J.

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O.P. No. 6735 of 1999(B)

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Dated this the 19th day of November, 2007

JUDGMENT

The petitioner is a PD Teacher. He is a member of a scheduled caste. He was promoted as Headmaster by Ext.P2 order dated 3.2.1999. The petitioner submits that he was entitled to be so promoted with effect from 30.11.1977. Since the petitioner became eligible to be so promoted with effect from that date, he points out that when respondents did not consider his claim, he approached this Court by filing OP No.23486 of 1998 in which by Ext.P1 judgment, this Court directed the Deputy Director of Education, Malappuram to consider the petitioner's claim for promotion in accordance with Ext.P3 judgment. Ext.P3 judgment is a case where schedule caste PD Teacher was granted retrospective promotion from the date when he became eligible for such promotion. The petitioner submits that he is entitled to the benefits of Ext. P3 and

therefore, he is entitled to retrospective promotion with effect from 30.11.77 with consequential monetary benefits.

2. The 1st respondent has filed a counter affidavit in which in paragraphs 3 to 4 it is stated thus:

> "3. The petitioner was entered in State Service only on 1.12.75. The petitioner is ranked as 1120 in the seniority list. However in the seniority list it is not detailed whether the petitioner is a Schedule Caste or not. During the years 1980-83 the whereabouts of those incumbants who were SC/ST in the seniority list were called for the promotion to the post of Primary Headmaster. The petitioner has never claimed promotion to the post of Headmaster or raised any claim that his juniors were promoted overlooking his right. During the year 1980-83 to the whereabouts of the petitioner was not received so as to give promotion to him. Accordingly it is not due to any fault of the respondents that the promotion of the petitioner happened to be delayed. The petitioner has submitted his representation for promotion to the post of Primary Headmaster only on 27.11.98. During the pendency of the above said representation the petitioner has approached before this Hon'ble court by filing O.P.23486/98. Accordingly on the basis of the direction of this Hon'ble Court in the above said O.P. Ext.P2 order was issued promoting the petitioner as Primary Headmaster in the scale of pay of Rs.5500-9075 with effect from the date of joining duty as Primary Headmaster. Monetary benefits can be allowed only if the petitioner had worked as Headmaster. For promotion with scale of pay in the post of Primary

Headmaster the petitioner should have minimum 15 years service a P.D. Teacher. The petitioner will complete his 15 years of service only on 1.12.90. Hence his claim for promotion with all monetary benefits with effect from 30.11.77 as Primary Headmaster is totally inadmissible and unsustainable also.

4. It is submitted that it is caused of the petitioner's own fault the promotion on the basis of exemption from test qualification was delayed. Therefore he has given promotion with effect from the date of joining duty as per Ext.P2 order. He is not eligible for the monetary benefits with retrospective effect. Monetary benefits can be allowed only if the petitioner had worked in the promoted post."

2. On the strength of this counter affidavit, the learned Government Pleader submits that it is not on account of any fault on the part of the respondents that the petitioner did not get his promotion but the petitioner did not claim the promotion by providing necessary details as and when the same was called for.

3. I have considered the contentions in detail. Admittedly, the petitioner woke up only after Ext.P3 judgment to stake his claim for promotion. He does not dispute the averments in paragraphs 3 and 4 of counter affidavit of 1st

respondent. As such the petitioner is guilty of delay and laches in approaching authorities for claiming promotion. This Court is not inclined to come to the assistance of a person who was sleeping over his rights for long periods. In the above circumstances, I am not inclined to exercise my discretionary jurisdiction in favour of the petitioner and accordingly, the original petition is dismissed.

S.SIRI JAGAN,
JUDGE

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